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Attorney Docket No.: **43888-335**
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
Harunari SHIMAMURA, et al.	:	Customer No. 53080
Application No.: 10/508,341	:	Confirmation No.: 5666
Filed: May 5, 2005	:	Group Art Unit: 1795
	:	Examiner: JOHN S. MAPLES
For: CATHODE MATERIAL AND NON-AQUEOUS ELECTROLYTE SECONDARY BATTERY USING IT	:	

ELECTION UNDER 35 U.S.C. § 121

Mail Stop Amendment
Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed March 23, 2009, having a shortened statutory period for response set to expire April 23, 2009, wherein the Examiner required restriction between the following distinct Species:

Embodiment I:	CuSi ₂ and Cu ₆ Sn ₅ ;
Embodiment II:	CuSi ₂ and a solid solution containing Cu and Sn;
Embodiment III:	Cu ₆ Sn ₅ and a solid solution containing Cu and Si;
Embodiment IV:	and a solid solution containing Cu and Si and a solid solution containing Cu and Sn; and
Embodiment V:	TiSi ₂ .

Applicants elect **Embodiment V**, with claims 1, 2, 8 and 9 readable thereon, for initial prosecution on the merits. Applicants also reserve the right to file a Divisional Application for the non-elected claims which the Examiner has indicated are patentably distinct.

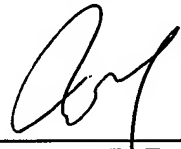
Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: 4/22/09

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